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SENATE BILL 524

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO HEALTH CARE FOR INDIGENTS; REVISING REIMBURSEMENT  
CRITERIA; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-5-3 NMSA 1978 (being Laws 1965,  
Chapter 234, Section 3, as amended) is amended to read:

"27-5-3. PUBLIC ASSISTANCE PROVISIONS. --

A. A hospital shall not be paid from the [county  
~~indigent hospital claims~~] fund under the Indigent Hospital and  
County Health Care Act for [any] costs of an indigent patient  
for services that have been determined by the [human services]  
department to be eligible for medicaid reimbursement [from that  
department]. However, nothing in the Indigent Hospital and  
County Health Care Act shall be construed to prevent the board  
from transferring money from the [county indigent hospital

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1 ~~claims~~] fund to the sole community provider fund or the county-  
2 supported medicaid fund for support of the state medicaid  
3 program.

4 B. No action for collection of claims under the  
5 Indigent Hospital and County Health Care Act shall be allowed  
6 against an indigent patient who is [~~medicaid~~] eligible for  
7 medicaid covered services, nor shall action be allowed against  
8 the person who is legally responsible for the care of the  
9 indigent patient during the time that person is medicaid  
10 eligible. "

11 Section 2. Section 27-5-4 NMSA 1978 (being Laws 1965,  
12 Chapter 234, Section 4, as amended by Laws 2001, Chapter 30,  
13 Section 1, Laws 2001, Chapter 272, Section 1 and also by Laws  
14 2001, Chapter 280, Section 1) is amended to read:

15 "27-5-4. DEFINITIONS.--As used in the Indigent Hospital  
16 and County Health Care Act:

17 A. "ambulance provider" or "ambulance service"  
18 means a specialized carrier based within the state authorized  
19 under provisions and subject to limitations as provided in  
20 individual carrier certificates issued by the public regulation  
21 commission to transport persons alive, dead or dying en route  
22 by means of ambulance service. The rates and charges  
23 established by public regulation commission tariff shall govern  
24 as to allowable cost. Also included are air ambulance services  
25 approved by the board. The air ambulance service charges shall

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1 be filed and approved pursuant to Subsection D of Section  
2 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

3 B. "board" means a county indigent hospital and  
4 county health care board;

5 C. "indigent patient" means a person to whom an  
6 ambulance service, a hospital or a health care provider has  
7 provided medical care, ambulance transportation or health care  
8 services and who can normally support himself and his  
9 dependents on present income and liquid assets available to him  
10 but, taking into consideration this income and those assets and  
11 his requirement for other necessities of life for himself and  
12 his dependents, is unable to pay the cost of the ambulance  
13 transportation or medical care administered or both. If  
14 provided by resolution of a board, it shall not include any  
15 person whose annual income together with his spouse's annual  
16 income totals an amount that is fifty percent greater than the  
17 per capita personal income for New Mexico as shown for the most  
18 recent year available in the survey of current business  
19 published by the United States department of commerce. Every  
20 board that has a balance remaining in the fund at the end of a  
21 given fiscal year shall consider and may adopt at the first  
22 meeting of the succeeding fiscal year a resolution increasing  
23 the standard for indigency. The term "indigent patient"  
24 includes a minor who has received ambulance transportation or  
25 medical care or both and whose parent or the person having

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1 custody of that minor would qualify as an indigent patient if  
2 transported by ambulance, ~~[or]~~ admitted to a hospital for care  
3 or treated by a health care provider ~~[or all three]~~;

4 D. "hospital" means a general or limited hospital  
5 licensed by the department of health, whether nonprofit or  
6 owned by a political subdivision, and may include by resolution  
7 of a board the following health facilities if licensed or, in  
8 the case of out-of-state hospitals, approved, by the department  
9 of health:

10 (1) for-profit hospitals;

11 (2) state-owned hospitals; or

12 (3) licensed out-of-state hospitals where  
13 treatment provided is necessary for the proper care of an  
14 indigent patient when that care is not available in an in-state  
15 hospital;

16 E. "cost" means all allowable ~~[ambulance~~  
17 ~~transportation costs, medical care costs or]~~ costs of providing  
18 health care services, to the extent determined by resolution of  
19 a board, for an indigent patient. Allowable costs shall be  
20 determined in accordance with a uniform system of accounting  
21 and cost analysis as determined by regulation of a board or  
22 based on medicaid reimbursement rates, which includes cost of  
23 ancillary services but shall not include the cost of servicing  
24 long-term indebtedness of a hospital, health care provider or  
25 ambulance service;

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1 F. "fund" means a county indigent hospital claims  
2 fund;

3 G. "medicaid eligible" means a person who is  
4 eligible for medical assistance from the department;

5 H. "county" means ~~any~~ a county except a class A  
6 county with a county hospital operated and maintained pursuant  
7 to a lease with a state educational institution named in  
8 Article 12, Section 11 of the constitution of New Mexico;

9 I. "department" means the human services  
10 department;

11 J. "sole community provider hospital" means:

12 (1) a hospital that is a sole community  
13 provider hospital under the provisions of the federal medicare  
14 guidelines ~~[established in 42 C.F.R. 412.92 pursuant to Title~~  
15 ~~18 of the federal Social Security Act]~~; or

16 (2) an acute care general hospital licensed by  
17 the department of health that is qualified, pursuant to rules  
18 adopted by the state agency primarily responsible for the  
19 medicaid program, to receive distributions from the sole  
20 community provider fund;

21 K. "drug rehabilitation center" means an agency of  
22 local government, a state agency, a private nonprofit entity or  
23 combination thereof that operates drug abuse rehabilitation  
24 programs that meet the standards and requirements set by the  
25 department of health;

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1           L. "alcohol rehabilitation center" means an agency  
2 of local government, a state agency, a private nonprofit entity  
3 or combination thereof that operates alcohol abuse  
4 rehabilitation programs that meet the standards set by the  
5 department of health;

6           M. "mental health center" means a not-for-profit  
7 center that provides outpatient mental health services that  
8 meet the standards set by the department of health;

9           N. "health care provider" means:

10                   (1) a nursing home;

11                   (2) an in-state home health agency;

12                   (3) an in-state licensed hospice;

13                   (4) a community-based health program operated  
14 by a political subdivision of the state or other nonprofit  
15 health organization that provides prenatal care delivered by  
16 New Mexico licensed, certified or registered health care  
17 practitioners;

18                   (5) a community-based health program operated  
19 by a political subdivision of the state or other nonprofit  
20 health care organization that provides primary care delivered  
21 by New Mexico licensed, certified or registered health care  
22 practitioners;

23                   (6) a drug rehabilitation center;

24                   (7) an alcohol rehabilitation center;

25                   (8) a mental health center; or

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1 (9) a licensed medical doctor, osteopathic  
2 physician, dentist, optometrist or expanded practice nurse when  
3 providing services in a hospital or outpatient setting that are  
4 necessary for conditions that endanger the life of or threaten  
5 permanent disability to an indigent patient;

6 O. "health care services" means ~~all~~ treatment and  
7 services designed to promote improved health in the county  
8 indigent population, including primary care, prenatal care,  
9 dental care, provision of prescription drugs, preventive care  
10 or health outreach services, to the extent determined by  
11 resolution of the board;

12 P. "planning" means the development of a countywide  
13 or multicounty health plan to improve and fund health services  
14 in the county based on the county's needs assessment and  
15 inventory of existing services and resources and that  
16 demonstrates coordination between the county and state and  
17 local health planning efforts; and

18 Q. "commission" means the New Mexico health policy  
19 commission. "

20 Section 3. Section 27-5-6 NMSA 1978 (being Laws 1965,  
21 Chapter 234, Section 6, as amended) is amended to read:

22 "27-5-6. POWERS AND DUTIES OF THE BOARD. --The board:

23 A. shall administer claims pursuant to the  
24 provisions of the Indigent Hospital and County Health Care Act;

25 B. shall prepare and submit a budget to the board

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1 of county commissioners for the amount needed to defray claims  
2 made upon the fund and to pay costs of administration of the  
3 Indigent Hospital and County Health Care Act and costs of  
4 development of a countywide or multicounty health plan. The  
5 combined costs of administration and planning shall [~~in no~~  
6 ~~event~~] not exceed the following percentages of revenues based  
7 on the previous fiscal year revenues for a fund that has  
8 existed for at least one fiscal year or based on projected  
9 revenues for the year being budgeted for a fund that has  
10 existed for less than one fiscal year. The percentage of the  
11 revenues in the fund that may be used for such combined  
12 administrative and planning costs [~~is equal to the sum of the~~  
13 ~~following~~:-

14 (1) shall not exceed ten percent of the amount  
15 of the revenues in the fund; [~~not over five hundred thousand~~  
16 ~~dollars (\$500,000)~~];

17 (2) ~~eight percent of the amount of the~~  
18 ~~revenues in the fund over five hundred thousand dollars~~  
19 ~~(\$500,000) but not over one million dollars (\$1,000,000); and~~

20 (3) ~~four and one-half percent of the amount of~~  
21 ~~the revenues in the fund over one million dollars~~  
22 ~~(\$1,000,000);]~~

23 C. shall make rules [~~and regulations~~] necessary to  
24 carry out the provisions of the Indigent Hospital and County  
25 Health Care Act; provided that the standards for eligibility

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1 and allowable costs for county indigent patients shall be no  
2 more restrictive than the standards for eligibility and  
3 allowable costs prior to December 31, 1992;

4 D. shall set criteria and cost limitations for  
5 medical care ~~[in]~~ furnished by licensed out-of-state hospitals,  
6 ambulance services or health care providers;

7 E. shall cooperate with appropriate state agencies  
8 to use available funds efficiently and to ~~make~~ health care more  
9 available;

10 F. shall cooperate with the department in making  
11 ~~[any]~~ an investigation to determine the validity of claims made  
12 upon the fund for ~~[any]~~ an indigent patient;

13 G. may accept contributions or other county  
14 revenues, which shall be deposited in the fund;

15 H. may hire personnel to carry out the provisions  
16 of the Indigent Hospital and County Health Care Act;

17 I. shall review all claims presented by a hospital,  
18 ambulance service or health care provider to determine  
19 compliance with the rules ~~[and regulations]~~ adopted by the  
20 board or with the provisions of the Indigent Hospital and  
21 County Health Care Act; determine whether the patient for whom  
22 the claim is made is an indigent patient; and determine the  
23 allowable medical, ambulance service or health care services  
24 costs; provided that the burden of proof of any claim shall be  
25 upon the hospital, ambulance service or health care provider;

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1 J. shall state in writing the reason for rejecting  
2 or disapproving any claim and shall notify the submitting  
3 hospital, ambulance service or health care provider of the  
4 decision within sixty days after eligibility for claim payment  
5 has been determined;

6 K. shall pay all claims that are not matched with  
7 federal funds under the state medicaid program and that have  
8 been approved by the board from the fund and shall make payment  
9 within thirty days after approval of a claim by the board;

10 L. shall determine by county ordinance the types of  
11 health care providers that will be eligible to submit claims  
12 under the Indigent Hospital and County Health Care Act;

13 M shall review, verify and approve all medicaid  
14 sole community provider hospital payment requests in accordance  
15 with rules [~~and regulations~~] adopted by the board prior to  
16 their submittal by the hospital to the department for payment  
17 but no later than January 1 of each year;

18 N. shall transfer to the state [~~treasurer~~] by the  
19 last day of ~~March~~, June, September and December of each year an  
20 amount equal to one-fourth of the county's payment for support  
21 of sole community provider payments as calculated by the  
22 department for that county for the current fiscal year. This  
23 money shall be deposited in the sole community provider fund;

24 O. may provide for the transfer of money from the  
25 [~~county indigent hospital claims~~] fund to the county-supported

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1       medicaid fund to meet the requirements of the Statewide Health  
2       Care Act; and

3               P.   may contract with ambulance providers, hospitals  
4       or health care providers for the provision of health care  
5       services. "

6               Section 4.   Section 27-5-11 NMSA 1978 (being Laws 1965,  
7       Chapter 234, Section 12, as amended) is amended to read:

8               "27-5-11.   HOSPITALS AND AMBULANCE SERVICES--HEALTH CARE  
9       PROVIDERS--REQUIRED TO FILE DATA--SOLE COMMUNITY PROVIDER  
10       HOSPITAL DUTIES. --

11              A.   [~~Any~~] An ambulance service, hospital or health  
12       care provider in New Mexico or licensed out-of-state hospital,  
13       prior to the filing of a claim with the board, shall have  
14       placed on file with the board:

15                      (1)   current data, statistics, schedules and  
16       information deemed necessary by the board to determine the cost  
17       for all patients in that hospital or cared for by that health  
18       care provider or tariff rates or charges of an ambulance  
19       service;

20                      (2)   proof that the hospital, ambulance service  
21       or health care provider is licensed [~~where required~~] under the  
22       laws of this state or the state in which the hospital operates;  
23       and

24                      (3)   [~~any~~] other information or data deemed  
25       necessary by the board.

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B. ~~[Every]~~ A sole community provider hospital requesting or receiving medicaid sole community provider hospital payments shall:

(1) accept indigent patients and request reimbursement for those patients through the appropriate county indigent fund. The responsible county shall approve requests meeting its eligibility standards and notify the hospital of such approval;

(2) confirm the amount of payment authorized by each county for indigent patients, to that county for the previous fiscal year, by September 30 of each calendar year;

(3) negotiate with each county the amount of indigent hospital payments anticipated for the following fiscal year by December 31 of each year; and

(4) provide to the department prior to January 15 of each year the amount of the authorized indigent hospital payments anticipated for the following fiscal year after an agreement has been reached on the amount with each responsible county and such other related information as the department may request. "

Section 5. Section 27-5-12.2 NMSA 1978 (being Laws 1993, Chapter 321, Section 15) is amended to read:

"27-5-12.2. DUTIES OF THE COUNTY--SOLE COMMUNITY PROVIDER HOSPITAL PAYMENTS. --~~[Every]~~ A county ~~[in New Mexico]~~ that authorizes payment for services to a sole community provider

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1 hospital shall:

2 A. determine eligibility for benefits and determine  
3 an amount payable on each claim for services to indigent  
4 patients from sole community provider hospitals;

5 B. notify the sole community provider hospital of  
6 its decision on each request for payment while not actually  
7 reimbursing the hospital for the services that are reimbursed  
8 with federal funds under the state medicaid program;

9 C. confirm the amount of the sole community  
10 provider hospital payments authorized for each hospital for the  
11 past fiscal year by September 30 of the current fiscal year;

12 D. negotiate agreements with each sole community  
13 provider hospital providing services for county residents on  
14 the anticipated amount of the payments for the following fiscal  
15 year; ~~and~~

16 E. provide the ~~[human services]~~ department by  
17 January 15 of each year with the budgeted amount of sole  
18 community provider hospital payments, by hospital, for the  
19 following fiscal year; and

20 F. confirm the amount of the sole community  
21 provider payments authorized by each hospital for the past  
22 fiscal year by auditing these amounts in the same manner that  
23 other state and county funds are audited."